IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 15522 of 2005(W)

PETITIONERS:

1. **BABY GEORGE,**
   AGRICULTURAL ASSISTANT, KRISHI BHAVAN,
   ARAKUZHA, MUVATTUPUZHA.

2. **CHERIAN V.C.,**
   AGRICULTURAL ASSISTANT, KRISHI BHAVAN,
   KONDAZHI, THRISSUR.

3. **SANTHOSH K.,**
   AGRICULTURAL ASSISTANT, KRISHI BHAVAN,
   PUTHKODU, PALAKKAD DISTRICT.

BY ADV. SRI.S.EASWARAN.

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVT.,
   AGRICULTURE (EA) DEPARTMENT, THIRUVANANTHAPURAM.

2. **THE DIRECTOR OF AGRICULTURE,**
   THIRUVANANTHAPURAM.

3. **T. CHANDRI,**
   AGRICULTURAL OFFICER, `CHAITHANYA HOUSE',
   P.O. KATALURE, KOYILANDY, KOZHIKODE.

W.P.(C). NO.15522/2005:

4. VALSAMMA JOSEPH,
AGRICULTURAL OFFICER, MANGALASSERIL HOUSE,
P.O. KALLURUTTY, THIRUVAMBADY, KOZHIKODE-673 603.

BY GOVERNMENT PLEADER SRI. BASANT BALAJI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/03/2007,ALONG WITH W.P.(C). NO. 20111/2005,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.15522/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE G.O.MS. NO. 7/80/AD DTD. 08/01/1980 ISSUED BY THE R.1.

EXT.P.2: COPY OF THE G.O. MS. NO. 285/89/AGRI. DTD. 13/11/1989 ISSUED BY DO. DO.

EXT.P.3: COPY OF THE G.O. MS. NO. 15/99/AGRI. DTD. 16/01/1999 ISSUED BY DO. DO.

EXT.P.4: COPY OF THE G.O. (MS). NO. 291/99/AGRI. DTD. 12/10/1999 ISSUED BY DO. DO.

EXT.P.5: COPY OF THE LETTER NO. SD (1) 1752/03 DTD. 26/06/2003 COMMUNICATED BY THE R.2. TO R.1.

EXT.P.6: COPY OF THE LETTER NO. SD1.70146/99 DTD. 12/02/2001 COMMUNICATED BY DO. DO.

EXT.P.7: COPY OF THE REPRESENTATION DTD. 26/08/2004 SUBMITTED BY ONE R. PRASANNAKUMAR TO THE R.1.

EXT.P.8: COPY OF THE PROCEEDINGS NO. SD1-71502/2000 DTD. 15/01/2001.

EXT.P.9: COPY OF THE ORDER NO. 42835/EA2/AD DTD. 23/02/2005 ISSUED BY THE R.1.

EXT.P.10: COPY OF THE COMBINED SENIORITY LIST OF AGRL. ASSTS. WHO HAVE BEEN PASSED THE SUITABILITY TEST/B.SC. (AGRICULTURE) ISSUED BY THE R.2.

RESPONDENT'S EXHIBITS:

EXT.R1.A: COPY OF THE ORDER DT. 24/08/2006 OF THE DIRECTOR OF AGRICULTURE.

EXT.R1.B: COPY OF THE ORDER DTD. 03/10/06 OF THE DIRECTOR OF AGRICULTURE.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

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W.P.(C)Nos.15522 & 20111 OF 2005

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Dated this the 30th day of March 2007

JUDGMENT

The issue raised in this writ petition pertains to grievance regarding promotion to the post of Agricultural Officers. Petitioners are graduates. 85% of the vacancies are to be filled up by direct recruitment and the qualification is graduation. However, 15% vacancies are earmarked to be filled up by promotion. As per the special rules for promotion as Agricultural Officer, the graduates should have 3 years service whereas non-graduates had to pass a test conducted by Public Service Commission and also they had to be in Agricultural Assistant Grade-I for a period of three years. Subsequently, the rules are amended and the non graduates need only have ten years service as Agricultural Assistant. It is not necessary that they should be in grade-I. Being graduates, for the 15% quota they should have been separately considered at least for a limited quota since non graduates cannot be treated at par with graduates, it is

submitted. In other words, it is a situation warranting a classification lest it should violate the guarantee under Article 14 of the Constitution of India. It is seen that the Director of Agriculture had recommended to the Government the need for such a classification of graduates and non-graduates in the matter of promotion to the post of agricultural officer in the 15% quota. The petitioners would further contend that in various other services, separate treatment is given to the graduates. It is also submitted that in the general rules when there are several feeder categories for promotion to a post, the category with higher pay is to be preferred and the same principle should be applied in the case of feeder category for promotion with different qualifications and hence candidates with higher qualification should be given a preferential treatment. The matter was considered by this court earlier leading to judgment dated 5.10.2004 in W.P.(C)No.29127/04 and this court directed the Government to consider the grievance of graduates in the light of the report of the

Director of Agriculture. The Government passed the impugned order dated 23.2.2005 rejecting the request of the petitioners. It is only stated that "the request for maintaining separate seniority list for graduates and for giving them a separate quota for promotion are devoid of merit and therefore the request was rejected". The recommendation of the Director of Agriculture is not referred to in the impugned order. There is no reference as to why the recommendation is not considered, despite a positive direction issued by this court in the judgment referred to above.

2. Having regard to the contentions raised by the petitioners and having regard to the further contention that in various other services preferential treatment is given to the graduates and still further having regard to the direction already issued by this court to consider the recommendation of the Director of Agriculture, I am of the view that the matter requires reconsideration by the Government. I quash the impugned Government Order with a direction to the

Government to pass fresh orders adverting to the contentions taken by the petitioners some of which are referred to above. Orders as above shall be passed with notice to the petitioners and the affected parties within a period of four months from the date of receipt of a copy of this judgment. Any promotion made in the meanwhile will be subject to the decision thus taken by the Government.

Writ petitions are disposed of as above.

KURIAN JOSEPH, JUDGE

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